

Attorney Docket No. P66034US0
Application No. 09/674,277

Remarks/Arguments:

Previously presented claims 20-25 and 27-60, with claims 20, 21, 24, 25, and 55 amended hereby, are pending.

Claim 26 is cancelled hereby, without prejudice or disclaimer.

Claims 20 and 21 are presently amended by deleting subject matter -- the "sequence derived from SEQ ID NO: 2 by . . . insertion . . . of one or more bases." Claim 24 is presently amended by deleting reference to SEQ ID NOS: 21- 27 and by changing its dependency from "claim 20" to "claim 21." Claim 24 is presently amended by deleting reference to SEQ ID NOS: 10-20 and by changing its dependency from "claim 23" to "claim 20." Other changes to the claims are effected, hereby, to more clearly define the subject invention.

Pursuant to the restriction requirement under 35 USC 121, election is made, hereby, to prosecute invention Group 2 -- claims 21, 22, and 24 -- with traverse. Species SEQ ID NO: 13 is elected, with traverse, in response to the requirement for election of species. Claims 20-24, 31, 33-35, 42-44, 46-53, 57, 58, and 60 read on the elected species.

Traversal is maintained with respect to restriction between invention Group 1 and invention Group 2. To support the restriction it is apparently alleged that the plasmid described in Makino et al. inherently meets the claim limitation to *a sequence derived from SEQ ID NO: 2*. According to the Office Action, the described plasmid is SEQ ID NO: 2 modified *by insertion* of a huge number (i.e., "one or more") bases. Even assuming, arguendo, that the allegation is correct, it is a moot issue in view of presently amended claim 20.

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Present claim 20 does not read on a *sequence derived from SEQ ID NO: 2 by insertion of one or more bases*; the "sequence derived from SEQ ID NO: 2" recited in present claim 20 is limited to that derived by "mutation, deletion, and/or substitution of one or more bases." The plasmid according to Makino et al. does not fall within the scope of the "sequence derived from SEQ ID NO: 2" recited in present claim 20.

It is, further, alleged that monophosphorylated nucleic acid bases (AMP) disclosed by Sigma Chemical Company anticipate the "fragment of SEQ ID NO: 2" recited in present claim 20. This allegation appears to be ill founded.

The "fragment of SEQ ID NO: 2" recited in present claim 20 *specifically detects enterohaemorrhagic Escherichia coli (EHECs)*. In no event can AMP achieve specific hybridization with SEQ ID NO: 2 and, thus, specifically detect EHECs.

The technical feature of present claim 20, i.e., providing an isolated nucleic acid that is specific for EHECs, is not anticipated as alleged in the Office Action. This same technical feature links present claim 20 (Group 1) and present claim 21 (Group 2), since each of SEQ ID NO: 1, SEQ ID NO: 2, their fragments, and derived sequences therefrom – as defined in claims 20 and 21 – are sequences specific for detecting EHECs and, thus, provide for the specific detection of such bacteria.

Accordingly, rejoinder of invention Groups 1 and 2 appears to be in order, as they are so linked as to form a single, general inventive concept.

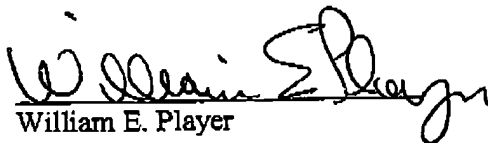
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Favorable action is requested.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By:


William E. Player
Reg. No. 31,409

The Jenifer Building
400 Seventh Street, N.W.
Washington, D.C. 20004-2201
Tel.: 202-638-6666
Fax: 202-3935350
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